

## **REMARKS**

Reconsideration of the application, as amended, is respectfully requested.

Claim 1 has been amended to correct a typographical error. Phytosterols are discussed, e.g., on page 10, lines 11-25. Claims 6 and 9 are canceled without prejudice since they are presently redundant.

As explained in the specification, one problem with UHT (Ultra High Temperature) sterilization of milk and other protein-containing suspensions is that gelation is observed for such UHT treated products or otherwise sterilized products. The specification explains that applicants have surprisingly found that the addition of a small amount of emulsifier reduces the gelation of sterilized protein-containing suspensions.

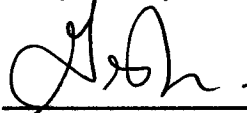
The Office points to no teaching that the aqueous medium of Aurio is sterilized. The paragraph the Office refers to (page 12, third paragraph) specifically states that the aqueous medium comprising phytosterol and non-sterol (o/w) emulsifier is maintained at a temperature of between 60 and 100°C., generally about 80°C. and stirred until the phytosterol is evenly dispersed. With respect to the remarks of the Office associating infant formulas with 'normally sterilized' the undersigned has been informed that premium infant formulas are known that require chilled distribution (i.e. they are not sterilized). The mere mentioning of infant formula as part of an extensive list does not support the assumption the Office makes.

As to Goto, again the Office fails to point to a composition as recited in claim 1 at least in that Example 13 lists no phytosterol.

To make the present invention, the skilled person first has to arrive at an emulsion according to applicants' claim 1. It is submitted that only with hindsight will the skilled person attempt to sterilize such a composition as it is apparent from the present specification that he/she knows that sterilization will normally result in age gelation.

In view of the foregoing, it is respectfully requested that the application, as amended, be allowed.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "G. McGowan, Jr.", is written over a horizontal line.

Gerard J. McGowan, Jr.  
Registration No. 29,412  
Attorney for Applicant(s)

GJM/mpk  
(201) 894-2297